

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 97-0544 RST

Sales And Use Tax

For The Periods: 1994, 1995, And 1996

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ISSUE

I. Use Tax - Trencher

Authority: 45 IAC 2.2-5-3(d)(1)

The taxpayer protests the imposition of use tax on a Trencher.

STATEMENT OF FACTS

The taxpayer an Indiana corporation, installs drainage tiles, digs ditches, wraps and hauls rock, gravel, and sand, and is occupationally engaged in farming.

I. Use Tax - Trencher

DISCUSSION

The taxpayer protests the imposition of sales tax on the purchase of a trencher and asserts that the trencher is used to install drainage tiles for farm operations which directly affects the production of agricultural commodities being produced. A review of the audit workpapers indicates the trencher is used to dig trenches where the drainage tiles are laid. 45 IAC 2.2-5-3(d)(1) states:

Other tangible personal property: Sales to farmers of other tangible personal property are taxable unless the property is used in direct production of food or agricultural commodities.

In addition, 45 IAC 2.2-5-3(d)(6) states:

Purchases of watering tubs and troughs and tile for drainage are taxable.

One regulation taxes the tile while the other taxes the equipment. If one is taxable, the other is also.

FINDINGS

The taxpayer's protest is denied. The trencher is taxable as it is not used for the production of food nor animals.